

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Office of Financial and Insurance Regulation
Petitioner,

Enforcement Case No. 10-7652

v

Brian W. Dungjen
System ID No. 0007545

Lakeshore Title Company
System ID No. 0008381

Respondents.

_____ /

CONSENT ORDER AND STIPULATION

Issued and entered,
on February 15, 2012,
by Annette E. Flood
Chief Deputy Commissioner

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent Brian W. Dungjen (Respondent Dungjen) has been a resident insurance producer in the State of Michigan with qualification and authorization to sell, solicit, or negotiate title insurance since February 18, 1997; System ID No. 0007545.
2. Respondent Lakeshore Title Company, (Respondent Lakeshore) has been a licensed insurance producer in the State of Michigan with qualification and authorization to sell, solicit, or negotiate title insurance since November 2, 1998; System ID No. 0008381.
3. Respondent Dungjen utilized Respondent Lakeshore to sell, solicit, or negotiate title insurance in the State of Michigan.
4. On or about September 11, 2009, OFIR received a complaint from First American Title Insurance Company (First American) alleging that Respondent Dungjen had collected insurance premiums, but failed to remit the insurance premiums in the amount of \$62,748.39.

5. In support of the allegation, First American submitted the contract between them and Respondent Lakeshore, and the missing premiums as outlined in audit report invoices that occurred between June 11, 2007 and August 2008.
6. Respondent Dungjen failed to comply with the terms of his contract by failing to remit the collected insurance premiums.
7. Pursuant to documentation submitted to OFIR, Respondent Dungjen failed to remit collected insurance premium in the amount of \$62,748.39 as outlined in audit report invoices dated October 23 and November 18, 2008.
8. On March 8, 2010, OFIR received a copy of a Consent Judgment between First American and Respondent Lakeshore and Respondent Dungjen, ordering them to pay \$62,748.39 to First American.
9. By failing to remit the collected insurance premium in the amount of \$62,748.39, to First American, Respondents have violated Section 1207(1), and given cause for discipline under Sections 1239(1)(d) & (h) of the Code.
10. Respondents knew or had reason to know that Section 1207(1) of the Code requires an agent to be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.
11. Respondents knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner to revoke, or levy a civil fine under section 1244 or any combination thereof, for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
12. Based upon the documents received and reviewed by the OFIR staff, Respondents failed to be the fiduciary for all money received during the course of insurance business, and Respondents failed to remit insurance premiums that were due and owing on behalf of First American, which are grounds for revocation, licensing sanctions and/or civil fines under Section 1244 of the Code.
13. Respondents knew or had reason to know that Section 1239(1)(h) of the Code, allows the Commissioner to revoke an insurance producer's license or levy a civil fine under Section 1244, for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
14. By converting the money received in the course of doing insurance business to his own use, Respondent Dungjen improperly withheld, misappropriated or converted money or property

received in the course of doing insurance business giving cause for discipline under Chapter 12, Section 1239(1)(d) of the Code.

15. By converting the money received in the course of doing insurance business to his own use, Respondent Dungjen engaged in fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business giving cause for discipline under Chapter 12, Section 1239(1)(h) of the Code.

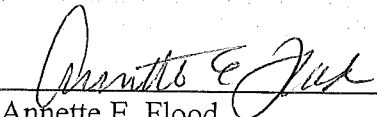
II. ORDER

Based upon the Findings of Fact and Conclusions of Law above and Respondents' stipulation, the Commissioner ORDERS that:

1. Respondents shall CEASE and DESIST from violating the Michigan Insurance Code.
2. Respondents' resident insurance producer licenses issued pursuant to the provisions of the Michigan Insurance Code are hereby REVOKED.
3. Respondents shall CEASE and DESIST from engaging in any activity requiring licensure under the Michigan Insurance Code.

IT IS SO ORDERED

Dated: 2-15-12

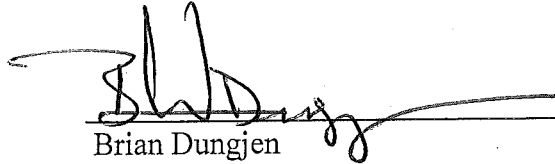

Annette E. Flood
Chief Deputy Commissioner

III. STIPULATION

Respondents have read and understand the consent order above. Respondents agree that the Chief Deputy Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. Respondents waive their right to a hearing in this matter if this consent order is issued. Respondents understand that this stipulation and consent order will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this consent order. Respondents waive any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. Respondents admit the findings of fact and conclusions of law set forth in the above consent order and agree to the entry of this order. Respondents admit that both parties have complied with the procedural requirements of the Michigan Administrative Procedures Act (MAPA) and the Michigan Insurance Code (Code). Respondents have had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.

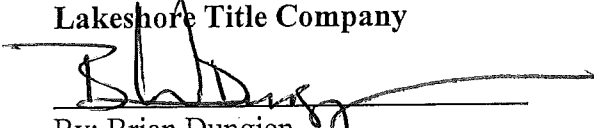
Respondents understand and intend that by signing this Stipulation, Respondents are waiving the right, pursuant to the Code, the rules promulgated thereto, and the MAPA, to a hearing before an administrative law judge, at which the OFIR would be required to prove the charges set forth by presentation of evidence and legal authority and at which Respondents would be entitled to appear to cross-examine all witnesses presented by the OFIR and to present such testimony or other evidence or legal authority deemed appropriate as a defense to said charges.

Dated: 1/24/2012

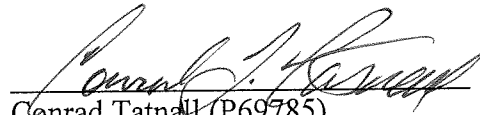

Brian Dungjen

Dated: 1/24/2012

Lakeshore Title Company


By: Brian Dungjen
Its: President

The Office of Financial and Insurance Regulation staff approves this Settlement Agreement and Stipulation and recommends that the Chief Deputy Commissioner accept it.


Conrad Tatnall (P69785)
Attorney

Dated. 2/2/12